

means of physical testing shall address the following requirements to ensure that a seal can reliably meet the seal strength requirements:

- (i) Certification by a professional engineer that the testing was done in accordance with current, prudent engineering practices for construction in a coal mine;
- (ii) Technical information related to the methods and materials;
- (iii) Supporting documentation;
- (iv) An engineering analysis to address differences between the seal support during test conditions and the range of conditions in a coal mine; and
- (v) A summary of the installation procedures related to seal construction.

(3) MSHA will notify the applicant if additional information or testing is required. The applicant shall provide this information, arrange any additional or repeat tests, and provide prior notification to MSHA of the location, date, and time of such test(s).

(4) MSHA will notify the applicant, in writing, whether the design is approved or denied. If the design is denied, MSHA will specify, in writing, the deficiencies of the application, or necessary revisions.

(5) Once the seal design is approved, the approval holder shall promptly notify MSHA, in writing, of all deficiencies of which they become aware.

(c) *Seal installation approval.* The installation of the approved seal design shall be subject to approval in the ventilation plan. The mine operator shall—

(1) Retain the seal design approval and installation information for as long as the seal is needed to serve the purpose for which it was built.

(2) Designate a professional engineer to conduct or have oversight of seal installation and certify that the provisions in the approved seal design specified in this section have been addressed and are applicable to conditions at the mine. A copy of the certification shall be submitted to the District Manager with the information provided in paragraph (c)(3) of this section and a copy of the certification shall be retained for as long as the seal is needed to serve the purpose for which it was built.

(3) Provide the following information for approval in the ventilation plan—

- (i) The MSHA Technical Support Approval Number;
- (ii) A summary of the installation procedures;
- (iii) The mine map of the area to be sealed and proposed seal locations that include the deepest points of penetration prior to sealing. The mine map shall be certified by a professional engineer or a professional land surveyor.
- (iv) Specific mine site information, including—
  - (A) Type of seal;
  - (B) Safety precautions taken prior to seal achieving design strength;
  - (C) Methods to address site-specific conditions that may affect the strength and applicability of the seal including set-back distances;
  - (D) Site preparation;
  - (E) Sequence of seal installations;
  - (F) Projected date of completion of each set of seals;
  - (G) Supplemental roof support inby and outby each seal;
  - (H) Water flow estimation and dimensions of the water drainage system through the seals;
  - (I) Methods to ventilate the outby face of seals once completed;
  - (J) Methods and materials used to maintain each type of seal;
  - (K) Methods to address shafts and boreholes in the sealed area;
  - (L) Assessment of potential for overpressures greater than 120 psi in sealed area;
  - (M) Additional sampling locations; and
  - (N) Additional information required by the District Manager.

[73 FR 21206, Apr. 18, 2008]

**§ 75.336 Sampling and monitoring requirements.**

(a) A certified person as defined in § 75.100 shall monitor atmospheres of sealed areas. Sealed areas shall be monitored, whether ingassing or outgassing, for methane and oxygen concentrations and the direction of leakage.

(1) Each sampling pipe and approved sampling location shall be sampled at least every 24 hours.

(i) Atmospheres with seals of 120 psi or greater shall be sampled until the

design strength is reached for every seal used to seal the area.

(ii) Atmospheres with seals less than 120 psi constructed before October 20, 2008 shall be monitored for methane and oxygen concentrations and maintained inert. The operator may request that the District Manager approve different sampling locations and frequencies in the ventilation plan, provided at least one sample is taken at each set of seals at least every 7 days.

(iii) Atmospheres with seals less than 120 psi constructed after October 20, 2008 shall be monitored for methane and oxygen concentrations and maintained inert. The operator may request that the District Manager approve different sampling locations and frequencies in the ventilation plan after a minimum of 14 days and after the seal design strength is reached, provided at least one sample is taken at each set of seals at least every 7 days.

(2) The mine operator shall evaluate the atmosphere in the sealed area to determine whether sampling through the sampling pipes in seals and approved locations provides appropriate sampling locations of the sealed area. The mine operator shall make the evaluation immediately after the minimum 14-day required sampling, if the mine ventilation system is reconfigured, if changes occur that adversely affect the sealed area, or if the District Manager requests an evaluation. When the results of the evaluations indicate the need for additional sampling locations, the mine operator shall provide the additional locations and have them approved in the ventilation plan. The District Manager may require additional sampling locations and frequencies in the ventilation plan.

(3) Mine operators with an approved ventilation plan addressing spontaneous combustion pursuant to § 75.334(f) shall sample the sealed atmosphere in accordance with the ventilation plan.

(4) The District Manager may approve in the ventilation plan the use of a continuous monitoring system in lieu of monitoring provisions in this section.

(b)(1) Except as provided in § 75.336(d), the atmosphere in the sealed area is considered inert when the oxygen concentration is less than 10.0 percent or

the methane concentration is less than 3.0 percent or greater than 20.0 percent.

(2) Immediate action shall be taken by the mine operator to restore an inert sealed atmosphere behind seals with strengths less than 120 psi. Until the atmosphere in the sealed area is restored to an inert condition, the sealed atmosphere shall be monitored at each sampling pipe and approved location at least once every 24 hours.

(c) Except as provided in § 75.336(d), when a sample is taken from the sealed atmosphere with seals of less than 120 psi and the sample indicates that the oxygen concentration is 10 percent or greater and methane is between 4.5 percent and 17 percent, the mine operator shall immediately take an additional sample and then immediately notify the District Manager. When the additional sample indicates that the oxygen concentration is 10 percent or greater and methane is between 4.5 percent and 17 percent, persons shall be withdrawn from the affected area which is the entire mine or other affected area identified by the operator and approved by the District Manager in the ventilation plan, except those persons referred to in § 104(c) of the Act. The operator may identify areas in the ventilation plan to be approved by the District Manager where persons may be exempted from withdrawal. The operator's request shall address the location of seals in relation to: Areas where persons work and travel in the mine; escapeways and potential for damage to the escapeways; and ventilation systems and controls in areas where persons work or travel and where ventilation is used for escapeways. The operator's request shall also address the gas concentration of other sampling locations in the sealed area and other required information. Before miners reenter the mine, the mine operator shall have a ventilation plan revision approved by the District Manager specifying the actions to be taken.

(d) In sealed areas with a demonstrated history of carbon dioxide or sealed areas where inert gases have been injected, the operator may request that the District Manager approve in the ventilation plan an alternative method to determine if the

sealed atmosphere is inert and when miners have to be withdrawn. The mine operator shall address in the ventilation plan the specific levels of methane, carbon dioxide, nitrogen and oxygen; the sampling methods and equipment used; and the methods to evaluate these concentrations underground at the seal.

(e) *Recordkeeping.* (1) The certified person shall promptly record each sampling result including the location of the sampling points, whether ingassing or outgassing, and oxygen and methane concentrations. The results of oxygen and methane samples shall be recorded as the percentage of oxygen and methane measured by the certified person and any hazardous condition found in accordance with § 75.363.

(2) The mine operator shall retain sampling records at the mine for at least one year from the date of the sampling.

[73 FR 21207, Apr. 18, 2008; 73 FR 27730, May 14, 2008]

**§ 75.337 Construction and repair of seals.**

(a) The mine operator shall maintain and repair seals to protect miners from hazards of sealed areas.

(b) Prior to sealing, the mine operator shall—

(1) Remove insulated cables, batteries, and other potential electric ignition sources from the area to be sealed when constructing seals, unless it is not safe to do so. If ignition sources cannot safely be removed, seals must be constructed to at least 120 psi;

(2) Remove metallic objects through or across seals; and

(3) Breach or remove all stoppings in the first crosscut in by the seals immediately prior to sealing the area.

(c) A certified person designated by the mine operator shall directly supervise seal construction and repair and—

(1) Examine each seal site immediately prior to construction or repair to ensure that the site is in accordance with the approved ventilation plan;

(2) Examine each seal under construction or repair during each shift to ensure that the seal is being constructed or repaired in accordance with the approved ventilation plan;

(3) Examine each seal upon completion of construction or repair to ensure that construction or repair is in accordance with the approved ventilation plan;

(4) Certify by initials, date, and time that the examinations were made; and

(5) Make a record of the examination at the completion of any shift during which an examination was conducted. The record shall include each deficiency and the corrective action taken. The record shall be countersigned by the mine foreman or equivalent mine official by the end of the mine foreman's or equivalent mine official's next regularly scheduled working shift. The record shall be kept at the mine for one year.

(d) Upon completion of construction of each seal a senior mine management official, such as a mine manager or superintendent, shall certify that the construction, installation, and materials used were in accordance with the approved ventilation plan. The mine operator shall retain the certification for as long as the seal is needed to serve the purpose for which it was built.

(e) The mine operator shall—

(1) Notify the District Manager between two and fourteen days prior to commencement of seal construction;

(2) Notify the District Manager, in writing, within five days of completion of a set of seals and provide a copy of the certification required in paragraph (d) of this section; and

(3) Submit a copy of quality control results to the District Manager for seal material properties specified by § 75.335 within 30 days of completion of quality control tests.

(f) *Welding, cutting, and soldering.* Welding, cutting, and soldering with an arc or flame are prohibited within 150 feet of a seal. An operator may request a different location in the ventilation plan to be approved by the District Manager. The operator's request must address methods the mine operator will use to continuously monitor atmospheric conditions in the sealed area during welding or burning; the airflow conditions in and around the work area; the rock dust and water application methods; the availability of fire extinguishers on hand; the procedures